

ECS File: JPA-89-63
Project No.: RS-364(6)P
TRACS No.: 0364 CH CCH SS06601C
Project: Davis Road Phase II
Section: US 80 - 47 Ranch

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
COCHISE COUNTY

THIS AGREEMENT is entered into 3 July, 1989,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the State) and the
COCHISE COUNTY, acting by and through its BOARD OF
SUPERVISORS(Local Agency).

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. Local Agency is empowered by Arizona Revised Statutes
Section 11-251, to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has
authorized the undersigned to execute this agreement on behalf
of Local Agency.

3. Congress has authorized appropriations for, but not
limited to, the construction of streets and primary, feeder and
farm-to-market roads; the replacement of bridges; the
elimination of roadside obstacles; and the application of
pavement markings.

4. Such project within the boundary of Local Agency has
been selected by Local Agency; the field survey of the project
has been completed; and the plans, estimates and specifications
have been prepared and, as required, submitted to the Federal
Highway Administration (FHWA) for its approval.

NO.	<u>13994</u>
FILED WITH SECRETARY OF STATE	
Date Filed	<u>7-3-89</u>
	<u>Jim Shumway</u> Secretary of State
By	<u>B. J. Miller</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of Local Agency by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. Local Agency, in order to obtain federal funds for the construction of the project, is willing to provide the State with Local Agency funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.

7. The work embraced in this agreement and the estimated cost are as follows: AC OVERLAY AND GUARDRAIL

Estimated Project Cost	= \$1,285,395.00
Federal Funds @ 92.48 % of	\$1,188,733.00
Cochise County Funds	= \$ 122,370.00

* This includes a 2% surcharge on the total cost as per Chief Deputy State Engineer memo of February 2, 1982.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the Local Agency, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of Local Agency's deposit unless and until so authorized in writing by the Local Agency.

2. Prior the solicitation of bids, the Local Agency shall deposit funds with the State in the amount determined by the State to be necessary to match federal funds in the ratio required.

Upon completion of the construction contract, the State shall return to the Local Agency any part of the funds deposited by Local Agency remaining after Local Agency's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The Local Agency shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The Local Agency shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The Local Agency shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the Local Agency shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the Local Agency.

6. Upon completion of construction, the Local Agency shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

7. The Local Agency shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the Local Agency shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. Local Agency assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of Local Agency and that Local Agency hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, Local Agency, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the work covered by this Agreement is to be borne by FHWA and Local Agency, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, Local Agency agrees to furnish and provide State with Local Agency funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Engineering Consultant Services
206 S. 17th Avenue - 118E
Phoenix, Arizona 85007

9. Attached hereto and incorporated herein is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

COCHISE COUNTY, ARIZONA

STATE OF ARIZONA
Department of Transportation

By Ann English

By Gary K. Robinson
GARY K. ROBINSON

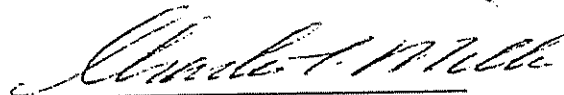
Title Chairman, Board of Supervisors

Chief Deputy State Engineer

RESOLUTION

BE IT RESOLVED on this 28th day of April 1989, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best interest of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the County of Cochise for the placement of AC overlay, minor guardrail installation and cattleguard modification, at the expense of Federal Highway Administration (FHWA) FAS funds and County funds.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.

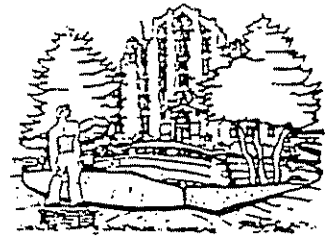


CHARLES L. MILLER, Director
Arizona Department of
Transportation

BOARD OF SUPERVISORS COUNTY OF COCHISE

P.O. Box 225

Bisbee, Arizona 85603



Ann English
Chairman
District 2

RESOLUTION 89-50

Gene Manning
District 1

A RESOLUTION OF THE COCHISE COUNTY BOARD OF SUPERVISORS (HEREINAFTER REFERRED TO AS THE BOARD) APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA DEPARTMENT OF TRANSPORTATION AND THE COUNTY FOR THE DAVIS ROAD OVERLAY PROJECT

Kim Bennett
District 3

WHEREAS, the Board is empowered by Arizona Revised Statutes Section 11-251 to lay out, maintain, control and manage public roads, and;

WHEREAS, the Board is also empowered by Arizona Revised Statutes Section 11-952 to enter into agreements with other public agencies for joint action, and;

David Hunt
Administrator
Clerk

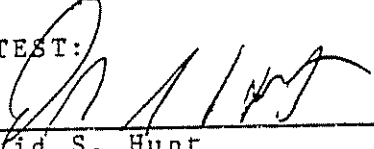
WHEREAS, Congress has made funds available for road construction, and;

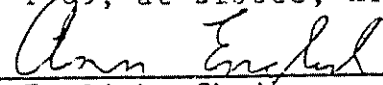
WHEREAS, the Board has determined that it is in the best interests of the Public to enter into A. G. Contract No. KR 89-0900-TRD with the State for the placement of AC overlay, minor guardrail installation and cattleguard modification on Davis Road (Project No. RS-364(6)P) at the expense of the Federal Highway Administration FAS funds and County funds.

NOW THEREFORE BE IT RESOLVED that the Board approves this agreement (A.G. Contract No. KR 89-0900-TRD) and authorizes the submittal of this approved agreement to the Arizona Department of Transportation for execution.

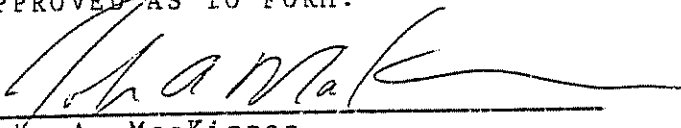
DATED this 21 day of June, 1989, at Bisbee, Arizona.

ATTEST:


David S. Hunt
Clerk/Administrator
Cochise County, Arizona


Ann English, Chairman
Board of Supervisors
Cochise County, Arizona

APPROVED AS TO FORM:


John A. MacKinnon
Deputy County Attorney

(602) 432-5471

(FAX)

(602) 432-5016

INTERGOVERNMENTAL AGREEMENT DETERMINATION

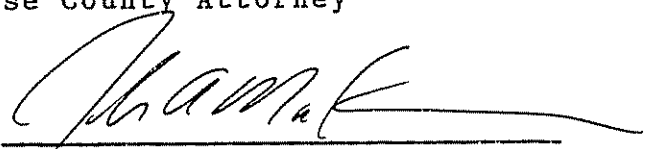
RE: Intergovernmental Agreement Between the State of Arizona and Cochise County- Davis Road Phase II

The attached agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952 by the undersigned Deputy County Attorney who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Cochise County.

Approved as to form this 2nd day of June, 1989.

ALAN K. POLLEY
Cochise County Attorney

By:


JOHN A. MacKINNON
Deputy County Attorney

In accordance with A.R.S. §11-952 this Agreement has been reviewed by the undersigned who has determined that this Agreement is in appropriate form and within the powers and authority granted to the public body or bodies identified below.

This ____ day of _____, 19 ____.

By:

Public Agency Legal Counsel

Name of Public Body or Bodies



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT


DETERMINATION

A. G. Contract No. K12-89-0900-TRD, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 30th day of June, 1989.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division